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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2011- 173

13 **JO ANN MICKLES AKA JOANN**
14 **ULLSTROM**
1276 8th Street
Los Osos, CA 93402
Registered Nurse License No. 210144

A C C U S A T I O N

15 Respondent.

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17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
21 of Consumer Affairs.

22 2. On or about September 30, 1970, the Board of Registered Nursing issued Registered
23 Nurse License Number 210144 to Jo Ann Mickles aka JoAnn Ullstrom (Respondent). The
24 Registered Nurse License was in full force and effect at all times relevant to the charges brought
25 herein and will expire on April 30, 2012, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

6. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

...

"(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

7. Section 2762 of the Code states:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

1 "(c) Be convicted of a criminal offense involving the prescription, consumption, or
2 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
3 or the possession of, or falsification of a record pertaining to, the substances described in
4 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
5 thereof.

6 8. Section 118, subdivision (b), of the Code provides that the
7 suspension/expiration/surrender/cancellation of a license shall not deprive the
8 Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period
9 within which the license may be renewed, restored, reissued or reinstated.

10 9. Section 490 of the Code provides, in pertinent part, that a board may suspend or
11 revoke a license on the ground that the licensee has been convicted of a crime substantially
12 related to the qualifications, functions, or duties of the business or profession for which the
13 license was issued.

14 10. Section 125.3 of the Code provides, in pertinent part, that the
15 Board/Registrar/Director may request the administrative law judge to direct a licensee found to
16 have committed a violation or violations of the licensing act to pay a sum not to exceed the
17 reasonable costs of the investigation and enforcement of the case.

18 **FIRST CAUSE FOR DISCIPLINE**

19 (Conviction of Substantially Related Crime)

20 11. Respondent is subject to disciplinary action under section 490 and 2761, subdivision
21 (a) and (f), for unprofessional conduct in that Respondent was convicted of a crime, which is
22 substantially related to the qualifications, functions, or duties of a licensed registered nurse. The
23 circumstances are as follows:

24 A. On or about November 14, 2007, in the case of *The People of the State of California*
25 *vs. Jo Ann Mickles* in San Luis County Superior Court, Case No. M000407165, Respondent was
26 convicted of violating Vehicle Code section 23152(b), (driving a vehicle with 0.08 percent or
27 more, by weight, of alcohol in his or her blood), a misdemeanor, based on her plea of nolo
28 contendere. The circumstances were that on August 12, 2007, Respondent willfully and

1 unlawfully drove a vehicle with 0.08 percent or more, by weight, of alcohol in her blood, thereby
2 endangering herself and the public.

3 B. On or about January 25, 2007, in the case of *The People of the State of California vs.*
4 *Jo Ann Mickles* in San Luis County Superior Court, Case No. M000397947, Respondent was
5 convicted of violating Vehicle Code section 23152(b), (driving a vehicle with 0.08 percent or
6 more, by weight, of alcohol in his or her blood), a misdemeanor, based on her plea of nolo
7 contendere. The circumstances were that on December 24, 2006, Respondent willfully and
8 unlawfully drove a vehicle with 0.08 percent or more, by weight, of alcohol in her blood, thereby
9 endangering herself and the public.

10 **SECOND CAUSE FOR DISCIPLINE**

11 (Use of Alcohol to an Extent Dangerous to Self or Others)

12 12. Respondent is subject to disciplinary action under section 2762, subdivision (b) and
13 (c) for use of alcohol in a manner dangerous or injurious to herself or any other person or to the
14 extent that such use impairs her ability to conduct with safety the practice authorized by her
15 license, as more fully described in paragraph 11, above.

16 **PRAYER**

17 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
18 and that following the hearing, the Board of Registered Nursing issue a decision:

19 1. Revoking or suspending Registered Nurse License Number 210144, issued to Jo Ann
20 Mickles aka JoAnn Ullstrom;

21 2. Ordering Jo Ann Mickles to pay the Board of Registered Nursing the reasonable costs
22 of the investigation and enforcement of this case, pursuant to Business and Professions Code
23 section 125.3;

24 3. Taking such other and further action as deemed necessary and proper.

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DATED: 9/1/10


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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